

I. BASIC INFORMATION REGARDING REPORT

1. Name, title, address, and telephone number of person(s) to be contacted with questions about the Report.

Robert Eckert
 Director, Freedom of Information/Privacy Acts Division,
 Office of the Assistant Secretary for Public Affairs
 United States Department of Health and Human Services
 330 C Street, S.W., Room 2206
 Washington D.C. 20201
 (202) 690-7453

2. ELECTRONIC ADDRESS FOR THIS REPORT ON THE WORLD WIDE WEB:

<http://www.hhs.gov/foia/09anlrpt.html>

3. ADDRESS FOR PAPER COPIES OF THIS REPORT

Contact Robert Eckert at the address or telephone number listed above, or the link shown 0001 Tw02 T3r

II. HOW TO MAKE A FOIA REQUEST

Requests may be submitted electronically at: <http://www.hhs.gov/foia/request/index.html>

1. HHS and OPDIV Freedom of Information Officers/FOIA Requester Service Centers

Health and Human Services (HHS)
Freedom of Information Officer
Mary E. Switzer Building, Room 2206
330 C Street, S.W.
Washington, D.C. 20201
Phone: 202-690-7453

Administration for Children and Families (ACF)
Freedom of Information Officer
901 D Street, S.W.
7th Floor West
Aerospace Building
Washington, D.C. 20447
Phone: 202-401-9215

Administration on Aging (AOA)
Freedom of Information Officer
Washington, D.C. 20201
Phone: 202-357-3540

Centers for Medicare & Medicaid Services (CMS)
Freedom of Information Officer
North Building, Room N2-20-06
7500 Security Boulevard
Baltimore, Maryland 21244
Phone: 410-786-5353

Office of Inspector General (OIG)
Freedom of Information Officer
Cohen Building, Suite 1062
330 Independence Ave, S.W.
Washington, D.C. 20201
Phone: 202-619-2541

Office of Public Health and Science (OPHS)
Freedom of Information Officer
Room 17-66, Parklawn Building
5600 Fishers Lane
Rockville, MD 20857
Phone: 301-443-5252

Substance Abuse and Mental Health Services Administration (SAMHSA)
Freedom of Information Officer
1 Choke Cherry Road, Room 8-1042
Rockville, Maryland 20857
Phone: 240-276-2137

2. Brief description of why some requests are not granted: Documents requested were protected by an exemption and release would have caused harm to the interest protected by the exemption. Information withheld may include home addresses and phone numbers, social security numbers, medical records, proprietary business records, investigatory records, that if released may interfere with open investigations, and drafts of documents.

- e. **Consultation** – the procedure whereby the agency responding to a FOIA request first forwards a record to another agency for its review because that agency has an interest in the document. Once the agency in receipt of the consultation finishes its review of the record, it responds back to the agency that forwarded it. That Agency, in turn, will then respond to the FOIA requester.
- f. **Exemption 3 Statute** – a federal statute that exempts information from disclosure and which the agency relies on to withhold information under subsection (b)(3) of the FOIA.
- g. **FOIA Request** – a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a “third-party” request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., “first-party” requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act “systems of records” or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report. Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)
- h. **Full Grant** - an agency decision to disclose all records in full in response to a FOIA request.
- i. **Full Denial** - an agency decision not to release any records in response to a FOIA request because the records are exempt in their entirety under one or more of the FOIA exemptions, or because of a procedural reason, such as when no records could be located.
- j. **Median Number** - Median Number – the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
- k. **Multi-Track Processing** – a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/first out basis.
 - (A) **Expedited Processing** – an agency will process a FOIA request on an expedited basis when a requester satisfies the requirements for expedited processing as set forth in the statute and in agency regulations.
 - (B) **Simple Request** – a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the low volume and/or simplicity of the records requested.

(C) **Complex Request** – a FOIA request that an agency using multi-track processing places in a slower track based on the high volume and/or complexity of the records requested.

- l. **Partial Grant/Partial Denial** – in response to a FOIA request, an agency decision to disclose portions of the records and to withhold other portions that are exempt under the FOIA, or to otherwise deny a portion of the request for a procedural reason.
 - m. **Pending Request or Pending Administrative Appeal** – a request or administrative appeal for which an agency has not taken final action in all respects.
 - n. **Perfect Request** – a request for records which reasonably describes such records and is made in accordance with published rules stating the time, place,
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IV. EXEMPTION 3 STATUTES

| Statute | Type of Information Withheld | Case Citation | Number of Times Relied upon per Component | Total Number of Times Relied upon by Agency |
|---|---|--|---|---|
| 5 U.S.C. app. 4 §107(a) (Ethics in Government Act of 1978) | Financial disclosure information pertaining to certain government employees | <i>Meyeroff v. EPA</i> , 948 F.2d 1498, 1500-02 (9 th Cir. 1992); <i>Concepcion v. FBI</i> , 606 F.Supp. 2d 14, 33 (D.D.C. 2009) | NIH – 2 | |
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V. FOIA Requests

A. Received, Processed, and Pending FOIA Requests

| | Number of Requests Pending as of Start of Fiscal Year | Number of Requests Received in Fiscal Year | Number of Requests Processed in Fiscal Year | Number of Requests Pending as of End of Fiscal Year |
|------------------|--|---|--|--|
| OS | | | | |
| ACF | | | | |
| AOA | | | | |
| CMS | | | | |
| OIG | | | | |
| OPHS/PSC | | | | |
| AHRQ | | | | |
| CDC | | | | |
| FDA | | | | |
| HRSA | | | | |
| IHS | | | | |
| NIH | 79 | 1147 | 1130 | 96 |
| SAMHSA | | | | |
| HHS Total | | | | |

| | Number of Full Grants | Number of Partial Grants/Partial Denials | Number of Full Denials Based on Exemptions | Number of Full Denials Based on Reasons Other than Exemptions | | | | | | | | | Total |
|------------------|-----------------------|--|--|---|---|-------------------|--------------------|----------------------------------|--|-------------------|-------------------|--------------------------------|-------|
| | | | | No Records | All Records Referred to another Component or Agency | Request Withdrawn | Fee-Related Reason | Records not Reasonably Described | Improper FOIA Request for Other Reason | Not Agency Record | Duplicate Request | Other "Explain in chart below" | |
| HHS Total | | | | | | | | | | | | | |

B. (3) Disposition of FOIA Requests - Number of times exemptions applied

| | Ex. 1 | | pt | | 0.48 | | 21pt | | 0.48 | | 24pt | | 0.48 |
|--|--------------|--|-----------|--|-------------|--|-------------|--|-------------|--|-------------|--|-------------|
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VI. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS

A. Received, Processed, and Pending Administrative Appeals

| | Number of Appeals Pending as of Start of Fiscal Year | Number of Appeals Received in Fiscal Year | Number of Appeals Processed in Fiscal Year | Number of Appeals Pending as of End of Fiscal Year |
|------------------|---|--|---|---|
| OS | | | | |
| CMS | | | | |
| HHS Total | | | | |

B. Disposition of Administrative

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C. (2) Reasons for denial on Appeal – Reasons other than exemptions

| | No Records | Records Referred at Initial Request Level | Request Withdrawn | Fee-Related Reason | Records Not Reasonably Described | Improper Request For Other Reasons | Not Agency Record | Duplicate Request Or Appeal | Request In Litigation | Appeal Based Solely on Denial of Request For Expedited Processing | Other Explain in Chart Below |
|------------------|------------|---|-------------------|--------------------|----------------------------------|------------------------------------|-------------------|-----------------------------|-----------------------|---|------------------------------|
| OS | | | | | | | | | | | |
| CMS | | | | | | | | | | | |
| HHS Total | | | | | | | | | | | |

C. (3) Reasons for denial on Appeal – Other:

| | Description of “Other” Reasons for Denial on Appeal from Chart C (2) & Number of Times Those Reasons Were Relied upon | TOTAL |
|------------------|--|--------------|
| OS | | |
| CMS | | |
| HHS Total | | |

C. (4) Response time for administrative appeals (See chart)

| | Median Number of Days | Average Number of Days | Lowest Number of Days | Highest Number of Days |
|--------------------|------------------------------|-------------------------------|------------------------------|-------------------------------|
| OS | | | | |
| CMS | | | | |
| HHS Overall | | | | |

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VII. FOIA REQUESTS: RESPONSE TIME FOR PROCESSED AND PENDING REQUESTS

A. Processed Requests – Response Time for All Perfected Requests¹

| | Simple | | | | Complex | | | | Expedited Processing | | | |
|-------------------------|------------------------------------|--------------------------------------|---------------------------------|---------------------------------------|------------------------------------|--------------------------------------|---------------------------------|---------------------------------------|------------------------------------|--------------------------------------|---------------------------------|---------------------------------------|
| | Media n Number of Days | Averag e Numbe r of Days | Lowest Numbe r of Days | Highest t Numbe r of Days | Media n Number of Days | Averag e Numbe r of Days | Lowest Numbe r of Days | Highest t Numbe r of Days | Media n Number of Days | Averag e Numbe r of Days | Lowest Numbe r of Days | Highest t Numbe r of Days |
| OS² | | | | | | | | | | | | |
| ACF | | | | | | | | | | | | |
| AOA | | | | | | | | | | | | |
| CMS | | | | | | | | | | | | |
| OIG | | | | | | | | | | | | |
| OPHS/PS C | | | | | | | | | | | | |
| AHRQ | | | | | | | | | | | | |
| CDC | | | | | | | | | | | | |
| FDA | | | | | | | | | | | | |
| HRSA³ | | | | | | | | | | | | |
| IHS | | | | | | | | | | | | |
| NIH | 13 | 16 | 1 | 161 | 54 | 78 | 1 | 1240 | 0 | 0 | 0 | 0 |
| SAMHSA | | | | | | | | | | | | |

¹ Some numbers based on estimates.

² Uses single-track log.

³ Uses single-track log.

| | Simple | | | | Complex | | | | Expedited Processing | | | |
|------------------------|-------------------------------------|--------------------------------------|---------------------------------|----------------------------------|-------------------------------------|--------------------------------------|---------------------------------|----------------------------------|-------------------------------------|--------------------------------------|---------------------------------|----------------------------------|
| | Media n Numbe r of Days | Averag e Numbe r of Days | Lowest Numbe r of Days | Highest Numbe r of Days | Media n Numbe r of Days | Averag e Numbe r of Days | Lowest Numbe r of Days | Highest Numbe r of Days | Media n Numbe r of Days | Averag e Numbe r of Days | Lowest Numbe r of Days | Highest Numbe r of Days |
| HHS Overall | | | | | | | | | | | | |

B. Processed Requests – Response Time for Perfected Requests in Which Information Was Granted⁴

| | Simple | | | | Complex | | | | Expedited Processing | | | |
|-------------------|-------------------------------------|--------------------------------------|---------------------------------|--------------------------------------|-------------------------------------|--------------------------------------|---------------------------------|--------------------------------------|-------------------------------------|--------------------------------------|---------------------------------|--------------------------------------|
| | Media n Numbe r of Days | Averag e Numbe r of Days | Lowest Numbe r of Days | Highe st Numbe r of Days | Media n Numbe r of Days | Averag e Numbe r of Days | Lowest Numbe r of Days | Highe st Numbe r of Days | Media n Numbe r of Days | Averag e Numbe r of Days | Lowest Numbe r of Days | Highe st Numbe r of Days |
| OS ⁵ | | | | | | | | | | | | |
| ACF | | | | | | | | | | | | |
| AOA | | | | | | | | | | | | |
| CMS | | | | | | | | | | | | |
| OIG | | | | | | | | | | | | |
| OPHS/PS C | | | | | | | | | | | | |
| AHRQ | | | | | | | | | | | | |
| CDC | | | | | | | | | | | | |
| FDA | | | | | | | | | | | | |
| HRSA ⁶ | | | | | | | | | | | | |
| IHS | | | | | | | | | | | | |
| NIH | 15 | 17 | 1 | 161 | 66 | 91 | 3 | 1237 | 0 | 0 | 0 | 0 |
| SAMHSA | | | | | | | | | | | | |

⁴ Some numbers based on estimates.

⁵ Uses single-track log.

⁶ Uses single-track log.

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C. Processed Requests – Response Time in Day Increments

1. Simple Requests

| | < 1 Day | 1–20 Days | 21– 40 Days | 41– 60 Days | 61– 80 Days | 81– 100 Days | 101– 120 Days | 121– 140 Days | 141– 160 Days | 161– 180 Days | 181– 200 Days | 201– 300 Days | 301– 400 Days | 401+ Days | TOTAL |
|-------------------------|------------|--------------|-------------------|-------------------|-------------------|--------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|--------------|-------|
| OS⁷ | | | | | | | | | | | | | | | |
| ACF | | | | | | | | | | | | | | | |
| AOA | | | | | | | | | | | | | | | |
| CMS | | | | | | | | | | | | | | | |
| OIG | | | | | | | | | | | | | | | |
| OPHS/PSC | | | | | | | | | | | | | | | |
| AHRQ | | | | | | | | | | | | | | | |
| CDC | | | | | | | | | | | | | | | |
| FDA | | | | | | | | | | | | | | | |
| HRSA⁸ | | | | | | | | | | | | | | | |
| IHS | | | | | | | | | | | | | | | |
| NIH | 55 | 649 | 205 | 52 | 10 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 972 |
| SAMHSA | | | | | | | | | | | | | | | |
| HHS Overall | | | | | | | | | | | | | | | |

⁷ Uses single-track log.

⁸ Uses single-track log.

2. Complex Requests

| | <1 day | 1-20 | | | | | | | | | | | | | |
|--|--------|------|--|--|--|--|--|--|--|--|--|--|--|--|--|
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3. Requests Granted Expedited Processing

| | 1-20 Days | 21-40 Days | 41-60 Days | 61-80 Days | 81- 100 Days | 101- 120 Days | 121- 140 Days | 141- 160 Days | 161- 180 Days | 181- 200 Days | 201- 300 Days | 301- 400 Days | 401+ Days | TOTAL |
|-----------------|----------------------|-----------------------|-----------------------|-----------------------|-----------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|----------------------|--------------|
| OS | | | | | | | | | | | | | | |
| ACF | | | | | | | | | | | | | | |
| AOA | | | | | | | | | | | | | | |
| CMS | | | | | | | | | | | | | | |
| OIG | | | | | | | | | | | | | | |
| OPHS/PSC | | | | | | | | | | | | | | |
| AHRQ | | | | | | | | | | | | | | |
| CDC | | | | | | | | | | | | | | |
| FDA | | | | | | | | | | | | | | |
| HRSA | | | | | | | | | | | | | | |
| IHS | | | | | | | | | | | | | | |
| NIH | 0 | | 0 | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 | 0 | 0 |
| | 0 | | | | | | | 0 | | | | | | |

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B. Requests for Fee Waiver

| | Number Granted | Number Denied | Median Number of Days to Adjudicate | Average Number of Days to Adjudicate |
|------------------|---------------------------|----------------------|--|---|
| OS | | | | |
| ACF | | | | |
| AOA | | | | |
| CMS | | | | |
| OIG | | | | |
| OPHS/PSC | | | | |
| AHRQ | | | | |
| CDC | | | | |
| FDA | | | | |
| HRSA | | | | |
| IHS | | | | |
| NIH | 0 | 1 | 2 | 2 |
| SAMHSA | | | | |
| HHS Total | | | | |

IX. FOIA PERSONNEL AND COSTS

| | Personnel | | | Costs | | |
|------------------|--------------------------------------|---|--------------------------------------|------------------|--------------------------|-------------|
| | Number of “Full-Time FOIA Employees” | Number of “Equivalent Full-Time FOIA Employees” | Total Number of Full-Time FOIA Staff | Processing Costs | Litigation-Related Costs | Total Costs |
| OS | | | | | | |
| ACF | | | | | | |
| AOA | | | | | | |
| CMS | | | | | | |
| OIG | | | | | | |
| OPHS/PSC | | | | | | |
| AHRQ | | | | | | |
| CDC | | | | | | |
| FDA | | | | | | |
| HRSA | | | | | | |
| IHS | | | | | | |
| NIH | 16 | 14.02 | 30.02 | 3,279,867 | 5,000 | 3,284,867 |
| SAMHSA | | | | | | |
| HHS Total | | | | | | |

X. FEES COLLECTED FOR PROCESSING REQUESTS

| | Total Amount of Fees Collected | Percentage of Total Costs |
|-------------------------|---------------------------------------|----------------------------------|
| OS | | |
| ACF¹² | | |
| AOA | | |
| CMS | | |
| OIG | | |
| OPHS/PSC | | |
| AHRQ | | |
| CDC | | |
| FDA | | |
| HRSA | | |
| IHS | | |
| NIH | 27,014 | .82 |
| SAMHSA | | |
| HHS Total | | |

¹² The ACF has temporarily suspended fee collections.

XI. FOIA REGULATIONS

<http://www.hhs.gov/foia/45cfr5.html>

XII. BACKLOGS, CONSULTATIONS, AND COMPARISONS

A. Backlogs of FOIA Requests and Administrative Appeals

| | Number of Backlogged Requests as of End of Fiscal Year | Number of Backlogged Appeals as of End of Fiscal Year |
|-----------------|---|--|
| OS | | |
| ACF | | |
| AOA | | |
| CMS | | |
| OIG | | |
| OPHS/PSC | | |
| AHRQ | | |
| CDC | | |
| FDA | | |
| HRSA | | |
| IHS | | |
| NIH | 33 | <i>See Department of Health</i> |
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C. Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency

| | 10th Oldest Request and Number of Days Pending | 9th | 8th | 7th | 6th | 5th | 4th | 3rd | 2nd | Oldest Request and Number of Days Pending |
|------------------|--|-----------------------|-----------------------|---------------------------------------|-----------------------|---|-----------------------|-----------------------|-----------------------|--|
| OS | | | | | | | | | | |
| ACF | | | | | | | | | | |
| OAD | | | | | | | | | | |
| CMS | | | | | | | | | | |
| OIG | | | | | | | | | | |
| PHS/PS-30 | 7 | MC | TD | <</MCI-0.0AH22 597.48 Tm | (rd)TjEMC yC | /TD <</MCI-0.0AH22 59-0.0007 T | | | | |
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D. Comparison of Numbers of Requests from Previous and Current Annual Report – Requests Received, Processed, and Backlogged

(1) Requests Received and Processed

| | Number of Requests Received | | Number of Requests Processed | |
|-----------|---|---|--|--|
| | Number Received During Fiscal Year from Last Year's Annual Report | Number Received During Fiscal Year from Current Annual Report | Number Processed During Fiscal Year from Last Year's Annual Report | Number Processed During Fiscal Year from Current Annual Report |
| OS | | | | |
| ACF | | | | |
| AOA | | | | |
| CMS | | | | |
| OIG | | | | |
| OPHS/PSC | | | | |
| AHRQ | | | | |
| CDC | | | | |
| FDA | | | | |
| HRSA | | | | |
| IHS | | | | |
| NIH | 1198 | 1147 | 1204 | 1130 |
| SAMHSA | | | | |
| HHS Total | | | | |

(2) Requests Backlogged

| | Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report | Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report |
|------------------|---|--|
| OS | | |
| ACF | | |
| AOA | | |
| CMS | | |
| OIG | | |
| OPHS/PSC | | |
| AHRQ | | |
| CDC | | |
| FDA | | |
| HRSA | | |
| IHS | | |
| NIH | 25 | 33 |
| SAMHSA | | |
| HHS Total | | |

E. Comparison of Numbers of Administrative Appeals from Previous and Current Annual Report – Appeals Received, Processed, and Backlogged

(1) Appeals Received, Processed

| | Number of Appeals Received | | Number of Appeals Processed | |
|--|--|--|--|--|
| | Number Received During Fiscal Year from Last Year's Annual | | Number Received During Fiscal Year from Last Year's Annual | |
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